





ARIZONA CORPORATION COMMISSION

DATE: AUGUST 4, 1995

DOCKET NO: U-1345-95-246

TO ALL PARTIES:

Enclosed please find the recommendation of Hearing Officer SCOTT S. WAKEFIELD . The recommendation has been filed in the form of an Opinion and Order on:

SOUTHWEST V-DUBS vs. ARIZONA PUBLIC SERVICE CO.

(COMPLAINT)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Hearing Officer by filing an original and ten (10) copies of the exceptions with the Commission's Docket Control at the address listed below by 5:00 p.m. on or before:

AUGUST 14,1995

The enclosed is <u>NOT</u> an order of the Commission, but a recommendation of the Hearing Officer to the Commissioners. Consideration of this matter has <u>tentatively</u> been scheduled for the Commission's Working Session and Open Meeting to be held on:

AUGUST 29, 1995 and AUGUST 30, 1995

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250.

James Matthews

EXECUTIVE SECRETARY

JM

Enc.

cc: ALL PARTIES

BEFORE THE ARIZONA CORPORATION COMMISSION 1 2 RENZ D. JENNINGS **CHAIRMAN** 3 MARCIA WEEKS COMMISSIONER CARL J. KUNASEK 4 COMMISSIONER 5 SOUTHWEST V-DUBS, DOCKET NO. U-1345-95-246 6 Complainant, DECISION NO. 7 VS. 8 ARIZONA PUBLIC SERVICE COMPANY. 9 Respondent. **OPINION AND ORDER** 10 DATE OF HEARING: July 26, 1995 11 PLACE OF HEARING: Phoenix, Arizona 12 PRESIDING OFFICER: Scott S. Wakefield 13 Mr. Brian A. Maxwell, on behalf of Arizona Public Service APPEARANCES: 14 Company. 15 BY THE COMMISSION: 16 **FINDINGS OF FACT**

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- 1. On May 17, 1995, Southwest V-Dubs ("Southwest") filed a Formal Complaint with the Arizona Corporation Commission ("Commission") against Arizona Public Service Company ("APS").
 - 2. On June 13, 1995, APS filed its Answer to the Formal complaint.
- 3. On June 19, 1995, the Commission issued a Procedural Order scheduling the hearing in the above-captioned matter for July 26, 1995 at 10:00 a.m.
- 4. The morning of the hearing, Don Cossey ("Cossey"), Manager of Southwest, spoke with the Presiding Officer on the telephone. Cossey indicated that Southwest was not represented by the attorney to whom the Procedural Order had been sent, and Southwest had learned of the scheduled hearing only the previous day. Cossey further indicated that Robert Walker, owner of Southwest, was having oral surgery that morning. Cossey indicated that Southwest would like a continuance of the hearing.
 - 5. On July 26, 1995, the Presiding Officer called the hearing and took the appearance of

1 APS' counsel. Southwest was not present. The Presiding Officer ordered Southwest to file a written request for continuance. APS requested that a deadline be set, after which time the case could be 2 dismissed if Southwest failed to request the continuance. The Presiding Officer set a deadline of 3 4 August 2, 1995 for Southwest to file a request for continuance. The same day, the Commission issued a Procedural Order that Southwest file a written 5 6 request for continuance no later than August 2, 1995. 7 Southwest has not filed a written request for continuance. 7. 8 **CONCLUSIONS OF LAW** APS is a public service corporation within the meaning of Article XV of the Arizona 9 1. 10 Constitution and A.R.S. § 40-246. The Commission has jurisdiction over the parties hereto and of the subject matter of 11 2. 12 the Complaint. Southwest has failed to prosecute its claim and its Complaint should therefore be 13 3. 14 dismissed. 15 16 17 18 19 20 21 22 23 24 25 26 27 28

ORDER

IT IS THEREFORE ORDERED that the Complaint filed on May 17, 1995 by Southwest V-Dubs against Arizona Public Service Company be, and hereby is, dismissed.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN	COMMISSIONER	COMMISSIONER
	IN WITNESS WHEREOF, I, JAMES MATTHE the Arizona Corporation Commission, have here the official seal of the Commission to be affixed Phoenix, this day of, 1995	unto set my hand and caused at the Capitol, in the City of
	JAMES MATTHEWS EXECUTIVE SECRETARY	
DISSENT SSW:dap		

DECISION NO.

I.						
1	SERVICE LIST FOR:	SOUTHWEST V-DUBS	V.	ARIZONA	PUBLIC	
2	OBICTION TOTAL	SERVICE COMPANY				
3	DOCKET NO.:	U-1345-95-246				
4	Brian A. Maxwell ARIZONA PUBLIC SERVICE CO.					
5	P.O. Box 53999, Mail Station 9820 Phoenix, Arizona 85072-3999					
6	Robert I. Walker					
7	SOUTHWEST V-DUBS 3548 W. Cactus					
8	Phoenix, Arizona 85029					
9	Paul A. Bullis, Chief Counsel Legal Division					
10	ARIZONA CORPORATION COMMISSI 1200 West Washington Street	ON				
11	Phoenix, Arizona 85007					
12	Gary Yaquinto, Director Utilities Division					
13	1200 West Washington Street					
14	Phoenix, Arizona 85007					
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